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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,474	04/20/2006	Jan Swerup	PS02 0184W01	6076
58561 7590 09/24/2009 HARRITY & HARRITY, LLP 11350 RANDOM HILLS ROAD SUITE 600 FAIRFAX, VA 22030				
EXAMINER JAMAL, ALEXANDER				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
09/24/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/576,474

**Applicant(s)**

SWERUP ET AL.

**Examiner**

ALEXANDER JAMAL

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Based upon the submitted amendment, the examiner notes that claims 1-5,7-16 have been amended and claims 17-20 have been added.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-20** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Per **claims 1-20**, applicant's arguments that the disclosed prior art message type selection does not constitute the claimed message type, the examiner contends that it is not clear exactly what defines the term 'transmission format'. For the purpose of examination the examiner assumes the claims refer to the fact that the message may be formatted differently based on the user selection.

Further, it is not clear exactly what defines a message type? Applicant's claims recite that an email with a message is a different type than an email without a message. For the purpose of examination the examiner assumes any message with different data types could be considered a different type of message.

Per **claims 18-20**, the claim recites a 'message editor' that receives a message. It is not clear what this phrase means as message editors do not receive messages they allow to compose messages by inputting data. For the purpose of examination the examiner assumes the claim recites that the user composes a message in a message editor.

Clarification/Correction is requested.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-2,4-6,9-11,14-16,18,20** rejected under 35 U.S.C. 102(e) as being unpatentable over L'Heureux (6697942) and further in view of Engstrom (7212808).

As per **claims 1,6,18**, L'Heureux discloses a messaging system (email) for a portable terminal that provides a common interface for different message types (abstract). The system comprises a common editor for all the different message types (Col 3 lines 1-30). The user selects the message type (Col 5 lines 40-50). The message must inherently be saved in order to be processed by the terminal in order to be sent to the network.

Based on the selected message type the terminal will 'change the transmission format' (the 'text' portion of the data field will be filled with the specific message type data). The terminal inherently comprises input means and display means for the purpose of letting the user 'select' any known type of data to be transferred (selecting a message type, and detection of a user selection). The system inherently comprises control means to control the hardware to perform the disclosed functions. However, the system does not comprise an encoder that outputs the message signaling in a particular protocol based on the type of message selected.

Engstrom discloses a messaging service where the transmission protocol is automatically selected based on the chosen message type (Col 5 line 65). It would have been obvious to implement the automatic protocol selection function for the advantage that the protocol will be automatically selected.

As per **claim 2**, the received message content is displayed by the appropriate application on the terminals.

As per **claims 4,5,9,10**, all data must be saved (in a 'general format') at every processing stage in the terminal in order for the data to be processed. The saving is 'automatic' for those functions that do not require user input to proceed.

As per **claim 11**, the message is uploaded to a specific web address (col 3).

As per **claim 14**, the device is a portable terminal with a display in which the user navigates a series of menus. The gui interface will change and the options selectable by

the user will change depending on the particular situation (such as being in the editor) that the user is in.

As per **claims 15, 16**, the device is a portable phone.

As per **claim 17**, the embedded data structure comprises an email protocol. The examiner further notes it would have been obvious to use any well known communications protocol as that is the very reason for defining a protocol.

As per **claim 20**, the type of message selected will be transmitted. The various text and data portions will comprise a different transmission protocol (a text payload and a picture payload for example).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 3,7,8,12,13,19**, rejected under 35 U.S.C. 103(a) as being unpatentable over L'Heureux (6697942) in view of Engstrom (7212808) as applied to claims 1,6,18.

As per **claims 3,7,8,19**, L'Heureux discloses a well known portable phone with a keypad and display interface as per the claim 1 rejection, but does not give the specifics of the interface, including a scrolling function.

The examiner contends it would be obvious to one skilled in the art that known gui interface types, such as scrolling or selectable display types could be implemented on the display as a matter of design choice. The examiner further notes that applicant's specification provides no specific detail as to how a scrolling function or selectable display types (via an information presentation unit) would be implemented on any particular terminal type. The examiner reads the scrolling function as a well known and obvious to implement feature on any device with a display.

As per **claims 12,13**, the examiner contends one skilled in the art would realize that the identification/authentication of the user (inherent to organized communication on a network) could be carried out with or without user interaction as a matter of design choice. The examiner further notes that applicant's specification does not give specific information as to how an authentication system (automatic or otherwise) would be implemented in any particular type of data device (as each data device would have a different set of programming parameters and input/output means).

### **Response to Arguments**

1. Applicant's arguments have been considered but are not persuasive.

As per applicant's arguments concerning transmission protocol, the examiner maintains that applicant's specification provides no specific correlation between the contents of a particular message and which 'format' is used. The examiner contends that

it is obvious to one skilled in the art that different message types are associated with different transmission protocols because protocol (formats) are specifically designed to transmit specific types of data. The examiner notes the new 112 rejection to applicant's amended claims.

Applicant argues that the prior art does not disclose a display of message types. The examiner notes that L'Heureux discloses a GUI that allows the user to embed data types. The examiner contends that the disclosed menus would be obvious to make scrollable. The embedded emails and non embedded emails are **two different message types** that are selectable by the user via the GUI interface. The examiner notes applicant's own **claim 17** recites an email-with-attachment and an email-without-attachment as **two different message types**. The GUI editor is common for emails with or without attachments (different message types).

Applicant makes numerous arguments based on the fact that an email is considered a single message type. **This is inconsistent with applicant's newly added claim 17.** Applicant's arguments are in direct conflict with the submitted claims !! The examiner again notes the 112 rejections above.

As per applicant's argument regarding claim 5, and the saving of the data. The examiner notes that the prior art is a digital system. Any digital signal that is processed must be stored in a register in order to be processed by the digital processing hardware. Applicant's claim language is broadly recited. The examiner maintains that 'saving in a general format' is a step performed at every processing stage. The message must be saved in registers in order for it to be processed. The examiner recommends that



applicant more clearly recite the 'general format' in the claims (in view of what is actually enabled by the specification!).

As per applicant's argument about the rejection of claims **3,7,8,12,13,19** not citing Engstrom, the examiner contends that was a clear and obvious error. The examiner notes the corrected rejection above.

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Jamal whose telephone number is 571-272-7498, and whose email address is alexander.jamal@uspto.gov

The examiner can usually be reached on M-F 8AM-5PM.

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If attempts to reach the examiner by telephone or email are unsuccessful, the examiner's supervisor, Curtis A Kuntz can be reached on 571-272-7499.

The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and **571-273-8300** for After Final communications.

/Alexander Jamal/

Primary Examiner, Art Unit 2614

Examiner Alexander Jamal

September 23, 2009